

### **GS.III Complaint investigations, mediations, and due process hearings and reviews are completed in a timely manner.**

#### **1. Baseline/Trend Data and Analysis (for reporting period July 1, 2003 through June 30, 2004):**

See Attachment 1 – Dispute Resolution - Complaints, Mediations, and Due Process Hearings Baseline/Trend Data.

#### **Descriptions of Due Process Hearing and Child Complaint Systems:**

##### Due Process Hearing System

The Due Process Hearing system in the State of Missouri is a one-tier system consisting of a state-level, three-member Hearing Panel for Part B, a single Hearing Officer for Part C and a single Hearing Officer for Expedited Hearings in Part B. The Part C Hearing Officer and the Part B Expedited Hearing Officer are attorneys under contract with the State of Missouri. The Part B hearing panel is composed of two trained lay officers, one selected by each party, and a Hearing Chair who is an attorney on contract with the State of Missouri. Both the Part B and Part C Due Process Hearing systems incorporate all requirements as specified in the Part B Federal Regulations at 300.506 through 300.514 and the Part C Federal Regulations at 303.419 through 303.425.

Requests for a Due Process Hearing must be made in writing to the Department of Elementary and Secondary Education, Division of Special Education. For the Part B hearing system, within (10) days of the date of the filing of a request, the parties must have identified their choice for a hearing officer. Within fifteen (15) days of the receipt of the request, a Hearing Chair is selected and the panel empowered.

Upon receipt of a request for a hearing, both parties are offered the opportunity for mediation. Both parties must agree to enter into mediation and agree on a trained mediator from a list that is provided. If mediation is successful, a written agreement is developed. All discussions during mediations are confidential and may not be used in any subsequent due process hearings or civil proceedings.

In the Part B system, prior to filing a request for a Due Process Hearing, the parent may submit a request to the Local Education Agency (LEA) for an Informal Resolution Conference. A parent request for a Due Process Hearing is considered to be a waiver of their right to an Informal Resolution Conference. In this case, the LEA may conduct the Resolution Conference and notify the parent of the results or they may waive the conduct of the conference.

If either party does not agree with the hearing decision, they may appeal the findings and decision in either state or federal court. The decision of the Due Process Hearing Panel is a final decision, unless a party to the hearing appeals.

##### Child Complaint System

A child complaint may be filed by any individual or organization that believes there has been a violation of any state or federal regulation implementing the IDEA in either the Part B or Part C system. The complaint must be filed in writing with the Department of Elementary and Secondary Education, Division of Special Education, unless it is determined that the requirement to file in writing effectively denies the individual the right to file the complaint. The child complaint procedures for Parts B and C incorporate all of the requirements as specified in the Part B Federal Regulations at 300.660 through 300.662 and the Part C Federal Regulations at 303.510 through 303.512.

Child complaints are investigated by a staff member of the Division of Special Education. Decisions are issued by the Commissioner of Education within sixty (60) days of the receipt of the complaint, unless it is determined that a longer period is necessary due to exceptional circumstances that exist with respect to a particular complaint.

In resolving a complaint in which it is found that a Responsible Public Agency is out of compliance, the Department addresses within its decision how to remediate the compliance violation, including as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and appropriate future provision of services for all children with disabilities. If needed, technical assistance activities and negotiations are undertaken.

If a written complaint is received that is also the subject of a due process hearing or contains multiple issues of which one or more are part of that hearing, the part(s) of the complaint that are being addressed in the due process hearing are set aside until the conclusion of the hearing.

If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding. A complaint alleging a school district's failure to implement a due process decision is resolved by the Department of Elementary and Secondary Education (DESE).

### Child Complaints

School Year	Total Filed	Total Decisions	Total Child Complaints Beyond 60 Day Timeline with Appropriate Extensions	Total Child Complaints Beyond 60 Day Timeline without Appropriate Extensions
2001-2002	125	113	6	0
2002-2003	166	150	3	0
2003-2004	154	145	23	0

### Child Complaint Allegations

	2001-2002	2002-2003	2003-2004
<b>Allegations</b>			
Total Number	405	505	439
Number Found Out of Compliance	107	108	132
Percent Found Out of Compliance	26.4%	21.4%	30.1%
<b>Corrective Action Plans</b>			
Number Granted & Met Extension Date	18	10	0
Number Beyond 45 Day Timeline without Extension	30	27	10
Percent Beyond 45 Day Timeline without Extension	28.0%	25.0%	7.8%

Source: Missouri Division of Special Education Child Complaint Database

Formulas:

Percent of Allegations Found Out of Compliance = Number of Allegations Found Out of Compliance/Total Number of Allegations Filed

Percent of CAPs Beyond 45 Day Timeline = Number of CAPs Beyond 45 Day Timeline/Total Number of Allegations Found Out of Compliance

The ten allegations that went beyond 45 days without an extension represent four child complaints from four separate districts. When a child complaint is filed, Division staff break down the complaint into one or more specific allegations. The average number of allegations per complaint is approximately three to four allegations. Each allegation is investigated and those found out of compliance require a corrective action. Some child complaint corrective actions continue to exceed timelines, however, procedures were implemented during 2004-05 to address this situation. See the "Explanation of Progress or Slippage" section below.

**Due Process Hearing Requests and Mediations**

School Year	Total Due Process Hearings Beyond Timeline without Extension	Total Mediation Agreements Beyond 30 Day Timeline
2001-2002	1	0
2002-2003	0	0
2003-2004	0	0

All child complaints, due process and mediation agreements are completed within timelines (including extended timelines).

**2. Targets (for reporting period July 1, 2003 through June 30, 2004):**

- All complaint investigations, mediations and due process hearing and reviews are completed within timelines.

**3. Explanation of Progress or Slippage (for reporting period July 1, 2003 through June 30, 2004):**

The child complaint/due process database allows Division staff to monitor timelines for child complaint investigations, due process hearings and corrective action submissions from districts. Procedures are in place to monitor timelines and since the inception of the database, very few, if any, DESE timelines have been exceeded without extension.

Due to the number of corrective actions that are not received within timelines from districts, procedures for following up on corrective actions have been revised as follows: The Child Complaint Coordinator/Legal Assistant will access the database weekly to assure corrective actions ordered have been submitted in a timely manner. If a corrective action has not been received by 30<sup>th</sup> day, Child Complaint Coordinator/Legal Assistant will contact the district by phone and/or email. If the district requests an extension, Child Complaint Coordinator will make a decision on the request and forward the decision to Legal Assistant. Legal Assistant will generate a letter to the district either informing them that an extension has been granted and indicating the new due date for submission of the corrective action or informing the district that an extension has not been granted, reminding them of the due date of the corrective action and informing them that sanctions may be imposed for failure to comply, including the withholding of state and/or federal funding provided by DESE.

If the corrective action has not been received by the due date, the district superintendent will be called by coordinator level staff person, and then sent a follow-up letter confirming the phone conversation, and informed that they must submit the corrective action and that failure to comply with the corrective action and due date may result in the withholding of state and/or federal funding provided by DESE. The letter will notify them that they must submit the corrective action within 45 days of the date of the letter. If the corrective action has not been received by day 120, procedures to withhold funding will be implemented.

**4. Projected Targets:**

- All complaint investigations, mediations and due process hearing and reviews are completed within original or extended timelines
- All child complaint corrective actions are completed within original or extended timelines

**5 & 6. Future Activities to Achieve Projected Targets/Results and Projected Timelines and Resources:**

Current activities will be continued for maintenance of present performance.